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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,122	12/14/2001	Shai Dekel	18104.0013U2	2500
25937	7590	09/08/2005	EXAMINER	
ZARETSKY & ASSOCIATES PC 8753 W. RUNION DR. PEORIA, AZ 85382-6412			DANG, DUY M	
			ART UNIT	PAPER NUMBER
			2621	
DATE MAILED: 09/08/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/022,122

Applicant(s)

DEKEL ET AL.

Examiner

Duy M. Dang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 6/8/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6,10,16,20,26 and 30-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6,10,16,20,26 and 30-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/22/02 + 10/29/02</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Applicant's election of Group I invention without traverse filed 6/8/05 is acknowledged.
2. Claims 6, 10, 16, 20, 26, and 30-42 are currently pending.
3. With regard to both Information Disclosure Statements (IDS) filed 10/29/02 and 7/22/02, the USPN 5,710,835 to Bradley was duplicated so the one listed on IDS filed 7/22/02 is not considered.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 26, 30 and 39-42 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In this case, claims 26, 30 and 39-42 are directed towards "a computer program." These claims 26, 30 and 39-42 do not necessarily invoke "a computer readable medium" as required to meet 35 USC 101. A "computer program" per se is an abstract and intangible idea that is considered "functional descriptive material." Any such functional descriptive material must be embodied on a computer readable medium in order for it to be statutory. Since the instant claims do not define any such medium, the claimed invention is not directed to statutory subject matter.

### ***Double Patenting***

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 6, 16, 26, and 31-33, 35-37, and 39-40 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-42 of U.S. Patent No. 6,314,452 (referred as the patent '452 hereinafter). Although the conflicting claims are not identical, they are not patentably distinct from each other because of the reasons as follows: for example, claims 6, 16, and 26 of the instant application is a broader recitation of the invention and the claim 1 of the patent '452 covers the equivalent subject matter as that of claims 6, 16, and 26 of the instant application. Specifically, each of the limitations of claims 6, 16, and 26 of the instant application is set forth in claim 1 of the patent '452. While the patented claim 1 includes additional limitations not set forth in claims 6, 16, and 26 of the instant application, the use of transitional term "comprising" in the instant claim 6 fails to preclude the possibility of additional elements. Therefore, claims 6, 16, and 26 of the instant application fails to define an invention that is patentably distinct from claim 1 of the patent '452.

Each of dependent claims 31-33, 35-37, and 39-40 of the instant application is also defined by the claims 7 and 9 of the patent '452 so that these claims 31-33, 35-37, and 39-40 of the instant applicant also fail to define a patentably distinct invention.

#### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 6, 10, 16, 20, 26, and 30-33, 35-37, and 39-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Chang et al. [US Patent No. 6,711,297].

Regarding claim 6, Chang teaches a system for transmitting a sequence of digital images over a communication network [see figure 1, a representative of a communication network environment comprising client-server (clients 150 and server 140) for transmitting sequence of digital images (source images 110) over a communication link (160)], comprising:

an image storage device for storing a sequence digital images [see image archive 112 of figure 1 and column 5 lines 7-11, and “storing a pyramidal data structure 130” mentioned in col. 9 lines 25-26];

a client computer coupled to the communication network [see clients 150 coupled to server 140 via communication link 160 according to figure 1], wherein the client computer generates a request for interaction with the sequences of images stored on the image storage device [see “client requests initial view” shown at 410 of figure 4 and mentioned in column 11. lines 6-26 in together with “client application 340” embedded in client 150 of figure 3 and mentioned in column 28-50], the request identifying a region of interest within the sequence of digital images [see image area selected by the user according to column 9 lines 45-47]; and

a server computer coupled to the communication network and the image storage device [see server 140 and image archive 112 of figure 1], wherein the server computer, in response to

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the request list, transmits to the client computer a number of data block corresponding to the specified quality threshold [see col. 11 line 66 to col. 12 lines 1-5]

Regarding claims 10, 20 and 30, Chang further teaches wherein: the request generated by the client computer further specifies a resolution and the server computer provides a number of data blocks corresponding to the specified quality threshold and resolution [see col. 11 line 50 to col. 12 line 6].

Regarding claim 16, it is noted that this claim is a method claim reciting features called for in claim 6 above. Therefore, claim 16 is rejected for the same reasons as set forth in claim 6 above.

Regarding claim 26, it is noted that this claim recites a computer program product having similar features called for in claims 6 and 16 above. Thus, the advanced statement as applied to claims 6 and 16 above are incorporated herein. Chang further teaches the use of software [see col. 9 lines 25-32, col. 14 line 62, and col. 18 lines 15-17].

Regarding claims 31, 35, and 39, Chang further teaches: wherein said data blocks comprises encoded subband coefficients [see figure 2H and col. 6 lines 40-49].

Regarding claim 32, 36, and 40, Chang further teaches wherein said data blocks comprises encoded wavelet coefficients generated using a three dimensional lossless wavelet transform [see figure 2H, col. 6 lines 40-49, and col. 7 lines 60-67].

Regarding claims 33, 37, and 41, Chang further teaches wherein said data blocks are generated by said server computer in response to said request from said client computer [see col. 11 line 66 to col. 12 lines 1-5].

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***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duy M. Dang whose telephone number is 571-272-7389. The examiner can normally be reached on Monday to Friday from 5:30AM to 2:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Mancuso can be reached on 571-272-7695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

dmd  
8/2005

A handwritten signature in black ink, appearing to read 'Duy M. Dang', with a long horizontal flourish extending to the right.

Duy M. Dang  
Patent Examiner